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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,075	03/23/2001	George Harry Hoffman	41556/04729 (RSI1P075)	7151
22428	7590	04/29/2004	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			ZEENDER, FLORIAN M	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/816,075	HOFFMAN ET AL. <i>MW</i>	
	<b>Examiner</b>	<b>Art Unit</b>	
	F. Ryan Zeender	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 March 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4-7,10-13 and 16-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4-7,10-13 and 16-27 is/are rejected.
- 7) Claim(s) 7,10-12 and 22-24 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>13</u> . | 6) <input type="checkbox"/> Other: _____.  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 7 and all claims dependent thereon are objected to because of the following informalities: The claims recite limitations comprising only logic. Since "logic" does not comprise any physical element, the use of the terminology, "A system" appears to be misdescriptive.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al. '156 in view of Garg '407 and Macartney-Filgate et al. '126.

Shavit et al. disclose, or inherently teach: a supply chain management system using a network (i.e., Internet); receiving data from a plurality of outlets of a supply chain relating to the sale of products; allowing restricted access to data by members of the supply chain using the network; and forecasting activity in the supply chain using the data (See for example Col. 7, line 19).

Shavit et al. lacks the specific teaching of receiving data during a product promotion; generating a current forecast of sales of the product during the product promotion based on the data; determining a deviation between the current forecast and a pre-promotion forecast and taking action related to inventory for both promoted products/brands and non-promoted products/brands in response to the deviation; making changes to product promotion based on the current forecast and generating a calendar of events for the product promotion accessible by the supply chain members.

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Garg discloses or inherently teaches a computer implemented method of receiving data during a product promotion; generating a current forecast of sales of the product during the product promotion based on the data (see for example Col. 3, 1<sup>st</sup> paragraph); forecasting demand for non-promotional items (see for example Col. 3, 1<sup>st</sup> paragraph); determining a deviation between the current forecast and a pre-promotion forecast (see for example, the paragraph starting in Col. 1, lines 66) and taking action related to inventory for both promoted products/brands and non-promoted products/brands in response to the deviation (see, for example, Cols. 1-4 and 10-12).

Macartney-Filgate et al. teaches that it is well known in marketing to make changes to a product promotion based on the current forecast and to generate a calendar of events for the product promotion (See, for example, paragraph 0029).

It would have been an obvious to one of ordinary skill in the art at the time of the invention to: receive data during a product promotion; generate a current forecast of sales of the product during the product promotion based on the data; determine a deviation between the current forecast and a pre-promotion forecast and to take action related to inventory for both promoted products and non-promoted products in response to the deviation; make changes to product promotion based on the current forecast and generate a calendar of events for the product promotion accessible by the supply chain members; in view of Garg and Macartney-Filgate et al.; in order to provide a marketing model "used to obtain causal demand forecasts for each brand, and its related decision making for inventory control" (See Garg, lines 14-16), and to "take into consideration conditions in the supply chain" (Macartney-Filgate et al., paragraph 0029).

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***Response to Arguments***

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

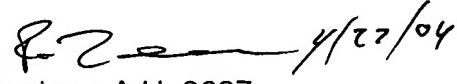
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9327 for after-final communications.

F. Zeender   
Primary Examiner, A.U. 3627  
April 22, 2004